

Appendix H: Motion for Demand of Evidence in Control of Others; Court Demand

8 October 1999

Arbitrazh Court for Moscow Oblast
[address of the court]

Plaintiff: OAO “Electronpribor”
[address]

Respondent: ZAO “Feltis”
[address]

Case No. A 41-K1-10920/99

MOTION

(under Articles 33, 54, 118 and 120 of the APC of the RF)

The Arbitrazh Court for Moscow Oblast initiated case No. A41-K1-10920/99 on the petition of OAO “Electronpribor” (hereinafter referred to as “Plaintiff”), concerning the exaction from ZAO “Feltis” (hereinafter referred to as “Respondent”) of indebtedness and a penalty fine in the sum of 39,105 rubles, and issued a Determination requiring the Respondent to present evidence disproving the claims of the suit and showing a full or partial payment of the debt, as well as to conduct a summary of accounts. In the given determination, the arbitrazh court appointed the date of 21/10/99 for the session in which the consideration of the case would take place.

The Respondent is unable to fulfill the requirements of the Arbitrazh Court in the stated period due to the fact that since 21/04/99 a tax verification has been underway at the enterprise for the years 1997 through 1999, inclusive. In connection with this, all of the documentation concerning the financial-economic activities of ZAO “Feltis” were taken, including the letter of guarantee of the Plaintiff.

The given fact was reflected by the Respondent in its Motion of 03/09/99.

In addition to that stated above, the Respondent informs the court that on 05/10/99, on the basis of an Instruction of the head of the Federal Tax Police for Moscow Oblast, a search of the premises of the Respondent was conducted and documents were taken. (Attachment No. 1).

ZAO “Feltis” in connection with the impossibility of conduct of a summary accounting of mutual obligations and of proof of its position, which is set forth in its response of 04/10/99, sent an inquiry to the bodies of the tax police on 08/10/99 (Attachment No. 2).

However, documents stated in the inquiry were not provided by the tax bodies.

In connection with this, ZAO “Feltis” considers that for the conduct of a summary of accounting for mutual obligations it is necessary to demand the following documents: petition of ZAO “Feltis” of 06/10/98 sent to OAO “Electronpribor” on 06/10/98, and the letter of OAO “Electronpribor” of 10/11/98.

Thus, the Respondent considers that for the consideration of the case in its substance, the above-listed evidence must be demanded of the Shchelkovski division of the Federal Tax Police for Moscow Oblast.

We simultaneously inform [the court] that no mutual set-off between the Plaintiff and the Respondent for the guarantee letter and the payment instruction has been conducted.

On the basis of that set forth above, ZAO “Feltis,” being guided by Articles 33, 54, 118 and 120 of the APC of the RF

REQUESTS:

1. That an inquiry be sent to the Shchelkovski region tax police for Moscow Oblast [address of the division of the tax police] a demand for the petition of ZAO “Feltis” of 06/10/98 and the letter of OAO “Electronpribor” of 10/11/98.
2. That the tax police for the Shchelkovski region of Moscow Oblast be obligated to provide the above-stated documents be provided to the Arbitrazh Court of Moscow Oblast.
3. In connection with the absence of the necessary documents in the possession of ZAO “Feltis”, that the consideration of the case be delayed for a period defined at the discretion of the court.

Attachments: 1. Copy of the inquiry to the Federal Tax Police of the RF for the Shchelkovski region of Moscow Oblast of 08/10/99, 1 copy on two pages.

2. Records of the search of 05/10/99 Nos. 1/3, 1/4, 1/23 in three copies on six pages.

Representative according to power
of attorney of 04/09/99

[signature]

A. V. Kostyunin

**ARBITRAZH COURT FOR
MOSCOW OBLAST**

[address of the court]

**To the Federal Tax Police for
Shchelkovski region of Moscow
Oblast**

21.10.99 No. A41-K1-10920/99

Responding to No. _____ of _____

Demand Under Article 54 of the APC RF

Proceedings are being conducted in the Arbitrazh Court for Moscow Oblast concerning a suit of OAO “Electronpribor” against ZAO “Feltis” concerning the exaction of 39,105 rubles.

According to the statement of ZAO “Feltis,” a tax verification is being conducted since 21/04/99 at the enterprise for the period of 1997 through 1999 inclusive, in connection with which all documentation concerning the financial-economic activities of the enterprise were taken. On 05/10/99, on the basis of the instruction of the head of the Federal Tax Police of the RF for Moscow Oblast, a search of the premises was conducted and the following documents were taken: petition of ZAO “Feltis” of 06/10/98, sent to OAO “Electronpribor” on 06/10/98, and the letter of OAO “Electronpribor” of 10/11/98.

The given documents are necessary for the consideration of the dispute in its substance.

It is requested that the given documents — the petition of ZAO “Feltis” of 06/10/98, sent to OAO “Electronpribor” on 06/10/98, and the letter of OAO “Electronpribor” of 01/11/98 — be issued directly to the authorized representative of ZAO “Feltis” in connection with the restricted time periods for the consideration of the dispute.

Judge [signature]

N. N. Vinogradova